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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,636	06/08/2001	Robert L. Batty	CURL-011	9270
21005	7590	07/02/2004	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/877,636

Applicant(s)

BATTY ET AL.

Examiner

Cristina O Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to the Application filed 8 June 2001. Claims 1-75 have been examined in this case.

#### ***Priority***

2. This application claims priority from provisional application 60265929 filed 2 February 2001.

#### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 and 22-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al (US 6,658,568B1).

6. Regarding claims 1 and 22 –

Ginter discloses a method for licensing a technology platform developed by a content technology provider to a content provider for deploying an applet to a content user,

wherein financial compensation to the content technology provider is based on usage of the applet by the content user, the method comprising: embedding licensing information into the applet; generating usage data when the applet is executed by the content user; transmitting the usage data to a server; determining a licensing fee according to the usage data; and billing the content provider for the licensing fee (e.g. col 4 ln 60 – col 5 ln 35).

7. Regarding claim 2-21 and 23-43 –

Ginter discloses the method of claim 1, wherein the content user comprises a content user on an Intranet, or Internet, wherein the technology platform comprises a content language for representing the applet in the content language and an execution engine for displaying and processing, creating the applet, wherein embedding licensing information into the applet comprises embedding a licensing tag into the applet, the licensing tag comprising a license number associated with the content provider and a license category, wherein the license category comprises a non-commercial license to deploy noncommercial applets or a commercial retail license to deploy commercial applets based on the technology platform, the commercial retail license incurring a licensing fee determined by a standard fee schedule based on metered applet usage (e.g. col 6 ln 30 – col 7 ln 30); wherein the license category comprises a commercial negotiated license to deploy commercial applets based on the technology platform, wherein the terms of the license are negotiated between the content provider and the content technology provider; usage data comprises one or more data items selected from a group consisting of: the size of the applet; the time and day of execution of the

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applet; the version of the execution engine used to process the applet; the amount of time during which the applet was executed; and the degree of interactivity of the applet (e.g. col 7 ln 2-20); wherein the usage data is stored into a metering record comprising one or more data fields selected from a group consisting of: a license number data field associated with the content provider; a size data field containing the size of the applet; a data field containing the time and day of execution of the applet; a license category data field indicating whether the applet contains commercial content; a record checksum data field to verify the contents of the metering record; a version data field indicating the version of the execution engine used to process the applet; and an applet statistics data field (e.g. col 9 ln 60 – col 10 ln 20); further comprising storing the metering record into a metering database, validating the licensing information to verify whether the license number is a valid license number assigned by the content technology provider (e.g. col 10 ln 40-55); wherein transmitting the usage data to a server comprises storing a plurality of metering records into a metering file and transmitting the metering file to the server, determining the time of creation of one or more metering records in the metering file, comparing the size of the metering file to a size threshold, comparing the time of creation of one or more metering records in the metering file to a time threshold; and transmitting the metering file to the server if the size of the metering file is larger than the size threshold or if the time of creation of one or more metering records in the metering file is older than the time threshold (e.g. col 19 ln 45 – col 20 ln 8); providing a financial data warehouse for determining the licensing fee for the technology platform based on the usage data, wherein billing the content provider for the licensing fee

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comprises sending a financial invoice to the content provider, charging a credit card number provided by the content provider with an amount corresponding to the licensing fees, or charging the content provider through an on-line payment service, further comprising allowing the content provider to verify the status of the license and the licensing fee, wherein allowing the content provider to verify the status of the license and the licensing fee comprises providing customer service, and wherein allowing the content provider to verify the status of the license and the licensing fee comprises providing an account web site to allow the content provider to check a billing summary and a usage summary of the applet (e.g. col 21 ln 60 – col 22 ln 30).

8. Claims 44-61 and 62-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al (US 6,658,568B1).

9. Regarding claim 44 and 62 –

Ginter discloses a system for licensing a technology platform developed by a content technology provider to a content provider for deploying an applet to a content user, wherein financial compensation to the content technology provider is based on usage of the applet by the content user, the system comprising: an execution engine to display and process the applet; a metering module in the execution engine to generate usage data when the applet is executed by the content user; a metering server to process the usage data; and an account invoicing system to charge the content provider a licensing fee for deploying the applet with the technology platform (e.g. col 4 ln 60 – col 5 ln 35).

10. Regarding claims 45-61 and 63-72 –

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Ginter discloses the system of claim 44, wherein the content user comprises a content user on an Intranet, or internet, wherein the technology platform comprises a content language for representing the applet in the content language and an execution engine for displaying and processing the applet, and for creating the applet, wherein the execution engine to display and process the applet comprises an execution engine selected from a group consisting a plug-in to web browser software; a software routine fully integrated into and part of the web browser software; and a standalone software routine associated with the web browser software (e.g. col 6 ln 30 – col 7 ln 30); wherein the usage data comprises one or more data items selected from a group consisting of: the size of the applet; the time and day of execution of the applet; the version of the execution engine used to process the applet; the amount of time during which the applet was executed; and the degree of interactivity of the applet (e.g. col 7 ln 2-20); wherein the usage data is stored into a metering record, comprising one or more data fields selected from a group consisting of: a license number data field associated with the content provider; a size data field containing the size of the applet; a data field containing the time and day of execution of the applet; a license category data field indicating whether the applet contains commercial content; a record checksum data field to verify the contents of the metering record; a version data field indicating the version of the execution engine used to process the applet; and an applet statistics data field (e.g. col 7 ln 2-20); wherein the metering record is stored into a metering database, further comprising a license assignment server to assign the license number to the content provider, a verification server for verifying the status of the license number, a

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financial data warehouse for determining the licensing fee for the technology platform based on the usage data (e.g. col 19 ln 45 – col 20 ln 8); wherein the account invoicing system comprises software routines for sending a financial invoice to the content provider, charging a credit card number provided by the content provider with an amount corresponding to the licensing fee, or charging the content provider through an on-line payment service, a billing authorization service for checking the validity of financial information submitted by a commercial content provider when requesting a license to use the technology platform, allowing the content provider to verify the status of the license and the licensing fee, comprising providing customer service, providing an account web site to allow the content provider to check a billing summary and a usage summary of the applet (e.g. col 21 ln 60 – col 22 ln 30).

11. Claim 74 is rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al (US 6,658,568B1).

12. Ginter discloses a system for licensing a technology platform developed by a content technology provider to a content provider for deploying an applet to a content user, wherein financial compensation to the content technology provider is based on usage of the applet by the content user, the system comprising: execution engine means for displaying and processing the applet; metering means in the execution engine means for generating usage data when the applet is executed by the content user; metering server means for processing the usage data; and account invoicing means for charging the content provider a licensing fee for deploying the applet with the technology platform (e.g. col 4 ln 60 – col 5 ln 35).



13. Claim 75 is rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al (US 6,658,568B1).

14. Ginter discloses a method for licensing a technology platform to a content provider for deploying an applet to a content user, the method comprising: embedding licensing information into the applet; generating usage data when the applet is executed by the content user; transmitting the usage data to a server; determining a licensing fee according to the usage data; and billing the content provider for the licensing fee (e.g. col 4 ln 60 – col 5 ln 35).

15. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

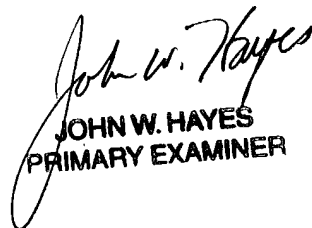
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.

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17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN W. HAYES  
PRIMARY EXAMINER